

# House File 403 - Introduced

HOUSE FILE 403

BY SHIPLEY

## A BILL FOR

1 An Act creating the living infants fairness and equality Act  
2 and providing for licensee discipline and civil and criminal  
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 DIVISION I

2 SHORT TITLE

3 Section 1. SHORT TITLE. This Act shall be known and may be  
4 cited as the "Living Infants Fairness and Equality Act".

5 DIVISION II

6 PREREQUISITES FOR ABORTION

7 Sec. 2. Section 146A.1, subsection 1, Code 2021, is amended  
8 to read as follows:

9 1. A physician performing an abortion shall obtain written  
10 certification from the pregnant woman of all of the following  
11 at least twenty-four hours prior to performing an abortion:

12 a. That the woman has undergone an ultrasound imaging of  
13 the ~~unborn~~ preborn child that displays the approximate age of  
14 the ~~unborn~~ preborn child and that the woman was informed of the  
15 probable gestational age of the preborn child.

16 b. That the woman was given the opportunity to see the  
17 ~~unborn~~ preborn child by viewing the ultrasound image of the  
18 ~~unborn~~ preborn child.

19 c. That the woman was given the option of hearing a  
20 description of the ~~unborn~~ preborn child based on the ultrasound  
21 image and hearing the heartbeat of the ~~unborn~~ preborn child.

22 d. That the woman has been provided information that there  
23 is evidence that prior to twenty weeks gestation a preborn  
24 child feels pain and the administration of anesthesia to a  
25 preborn child prior to twenty weeks gestation is routine.

26 e. That the woman has been provided a declaration that  
27 abortion ends a unique human life.

28 f. That the woman has been provided information regarding  
29 coercion and abortion and resources to seek assistance.

30 ~~d.~~ g. (1) That the woman has been provided information  
31 regarding all of the following by a licensed mental health  
32 counselor or licensed marital and family therapist as defined  
33 in section 154D.1, based upon the materials developed by the  
34 department of public health pursuant to subparagraph (2):

35 (a) The options relative to a pregnancy, including

1 continuing the pregnancy to term and retaining parental rights  
2 following the child's birth, continuing the pregnancy to  
3 term and placing the child for adoption, and terminating the  
4 pregnancy.

5 (b) The indicators, contra-indicators, and risk factors  
6 including any physical, psychological, or situational factors  
7 related to the abortion in light of the woman's medical history  
8 and medical condition.

9 (c) The local, state, and federal resources available to  
10 pregnant women including social services, adoption services,  
11 medical services, maternity homes, and services for those who  
12 are victims of rape or domestic abuse.

13 (2) The department of public health shall make available to  
14 physicians and licensed mental health counselors and licensed  
15 marital and family therapists as defined in section 154D.1,  
16 upon request, all of the following information:

17 (a) Geographically indexed materials designed to inform the  
18 woman about public and private agencies and services available  
19 to assist a woman through pregnancy, at the time of childbirth,  
20 and while the child is dependent. The materials shall include  
21 a comprehensive list of the agencies available, categorized by  
22 the type of services offered, and a description of the manner  
23 by which the agency may be contacted.

24 (b) Materials that encourage consideration of placement for  
25 adoption. The materials shall inform the woman of the benefits  
26 of adoption, including the requirements of confidentiality in  
27 the adoption process, the importance of adoption to individuals  
28 and society, and the state's interest in promoting adoption by  
29 preferring adoption over abortion.

30 (c) Materials that contain objective information describing  
31 the methods of abortion procedures commonly used, the medical  
32 risks commonly associated with each such procedure, and the  
33 possible detrimental physical and psychological effects of  
34 abortion.

35 Sec. 3. Section 146A.1, subsection 6, Code 2021, is amended

1 to read as follows:

2 6. As used in this section:

3 a. "*Medical emergency*" means a situation in which an  
4 abortion is performed to preserve the life of the pregnant  
5 woman ~~whose life is endangered by a physical disorder, physical~~  
6 ~~illness, or physical injury, including a life-endangering~~  
7 ~~physical condition caused by or arising from the pregnancy, but~~  
8 ~~not including psychological conditions, emotional conditions,~~  
9 ~~familial conditions, or the woman's age; or when continuation~~  
10 of the pregnancy ~~will create a serious risk of~~ would have  
11 caused a substantial and irreversible physical impairment of a  
12 major bodily function of the pregnant woman.

13 b. ~~"Unborn child"~~ "*Preborn child*" means an individual  
14 organism of the species homo sapiens from fertilization to live  
15 birth.

16 Sec. 4. Section 514C.16, subsection 3, paragraph a,  
17 subparagraph (1), Code 2021, is amended to read as follows:

18 (1) Placing the health of the individual, or with respect to  
19 a pregnant woman, the health of the woman or her ~~unborn~~ preborn  
20 child, in serious jeopardy.

21 Sec. 5. Section 702.20, Code 2021, is amended to read as  
22 follows:

23 **702.20 Viability.**

24 "*Viability*" is that stage of fetal development when the  
25 life of the ~~unborn~~ preborn child may be continued indefinitely  
26 outside the womb by natural or artificial life support systems.  
27 The time when viability is achieved may vary with each  
28 pregnancy, and the determination of whether a particular fetus  
29 is viable is a matter of responsible medical judgment.

30 DIVISION III

31 ABORTION PROHIBITED — DETECTABLE FETAL HEARTBEAT

32 Sec. 6. NEW SECTION. **146E.1 Definitions.**

33 As used in this chapter, unless the context otherwise  
34 requires:

35 1. "*Abortion*" means the termination of a human pregnancy

1 with the intent other than to produce a live birth or to remove  
2 a dead fetus.

3 2. "*Fetal heartbeat*" means cardiac activity, the steady and  
4 repetitive rhythmic contraction of the fetal heart within the  
5 gestational sac.

6 3. "*Medical emergency*" means the same as defined in section  
7 146A.1.

8 4. "*Physician*" means a person licensed under chapter 148.

9 5. "*Preborn child*" means the same as defined in section  
10 146A.1.

11 6. "*Reasonable medical judgment*" means a medical judgment  
12 made by a reasonably prudent physician who is knowledgeable  
13 about the case and the treatment possibilities with respect to  
14 the medical conditions involved.

15 Sec. 7. NEW SECTION. 146E.2 **Abortion prohibited —**  
16 **detectable fetal heartbeat.**

17 1. Except in the case of a medical emergency, a physician  
18 shall not perform an abortion unless the physician has first  
19 complied with the prerequisites of chapter 146A and has  
20 tested the pregnant woman as specified in this subsection, to  
21 determine if a fetal heartbeat is detectable.

22 a. In testing for a detectable fetal heartbeat, the  
23 physician shall perform an ultrasound as necessary to detect  
24 a fetal heartbeat according to standard medical practice  
25 and including the use of medical devices, as determined by  
26 standard medical practice and specified by rule of the board  
27 of medicine.

28 b. Following the testing of the pregnant woman for a  
29 detectable fetal heartbeat, the physician shall inform the  
30 pregnant woman, in writing, of all of the following:

31 (1) Whether a fetal heartbeat was detected.

32 (2) That if a fetal heartbeat was detected, an abortion is  
33 prohibited.

34 c. Upon receipt of the written information, the pregnant  
35 woman shall sign a form acknowledging that the pregnant woman

1 has received the information as required under this subsection.

2     2. A physician shall not perform an abortion upon a pregnant  
3 woman when it has been determined that the preborn child has  
4 a detectable fetal heartbeat, unless, in the physician's  
5 reasonable medical judgment, a medical emergency exists.

6     3. If an abortion is performed under this subsection, the  
7 physician shall terminate the human pregnancy in the manner  
8 which, in the physician's reasonable medical judgment, provides  
9 the best opportunity for a preborn child to survive.

10    4. If a physician performs or attempts to perform an  
11 abortion based on the existence of a medical emergency,  
12 the physician shall document the medical basis for the  
13 determination including the specific medical condition the  
14 physician believes would have caused the death of the woman or  
15 the specific medical condition the physician believes would  
16 constitute a substantial and irreversible physical impairment  
17 of a major bodily function of the woman.

18    5. A physician shall retain in the woman's medical record  
19 all of the following:

20     a. Documentation of the testing for a fetal heartbeat  
21 as specified in subsection 1 and the results of the fetal  
22 heartbeat test.

23     b. The pregnant woman's signed form acknowledging that  
24 the pregnant woman received the information as required under  
25 subsection 1.

26    6. This section shall not be construed to impose civil  
27 or criminal liability on a woman upon whom an abortion is  
28 performed in violation of this section.

29    7. The board of medicine shall adopt rules pursuant to  
30 chapter 17A to administer this section.

31    8. A physician who violates this section is subject to  
32 licensee discipline pursuant to section 148.6.

33    Sec. 8. NEW SECTION. 146E.3 Civil and criminal actions  
34 — penalties.

35    1. A physician who intentionally or recklessly performs or

1 attempts to perform an abortion in violation of this chapter is  
2 guilty of a class "C" felony.

3 2. A woman upon whom an abortion has been performed in  
4 violation of this chapter may maintain an action against the  
5 physician who performed the abortion in intentional or reckless  
6 violation of this chapter for actual damages.

7 3. A woman upon whom an abortion has been attempted in  
8 violation of this chapter may maintain an action against the  
9 physician who attempted to perform the abortion in intentional  
10 or reckless violation of this chapter for actual damages.

11 4. A cause of action for injunctive relief to prevent a  
12 physician from performing an abortion may be maintained against  
13 a physician who has intentionally violated this chapter by the  
14 woman upon whom the abortion was performed or attempted, by  
15 a parent or guardian of the woman if the woman is less than  
16 eighteen years of age or unmarried at the time the abortion  
17 was performed or attempted, by a current or former licensed  
18 health care provider of the woman, by a county attorney with  
19 appropriate jurisdiction, or by the attorney general.

20 5. If the plaintiff prevails in an action brought under  
21 this section, the plaintiff shall be entitled to an award of  
22 reasonable attorney fees.

23 6. If the defendant prevails in an action brought under  
24 this section and the court finds that the plaintiff's suit was  
25 frivolous and brought in bad faith, the defendant shall be  
26 entitled to an award of reasonable attorney fees.

27 7. Damages and attorney fees shall not be assessed against  
28 the woman upon whom an abortion was performed or attempted  
29 except as provided in subsection 6.

30 8. In a civil or criminal proceeding or action brought  
31 under this chapter, the court shall rule whether the anonymity  
32 of any woman upon whom an abortion has been performed or  
33 attempted shall be preserved from public disclosure if the  
34 woman does not provide consent to such disclosure. The court,  
35 upon motion or on its own motion, shall make such a ruling

1 and, upon determining that the woman's anonymity should be  
 2 preserved, shall issue orders to the parties, witnesses,  
 3 and counsel and shall direct the sealing of the record and  
 4 exclusion of individuals from courtrooms or hearing rooms to  
 5 the extent necessary to safeguard the woman's identity from  
 6 public disclosure. Each such order shall be accompanied by  
 7 specific written findings explaining why the anonymity of the  
 8 woman should be preserved from public disclosure, why the  
 9 order is essential to that end, how the order is narrowly  
 10 tailored to serve that interest, and why no reasonable less  
 11 restrictive alternative exists. In the absence of written  
 12 consent of the woman upon whom an abortion has been performed  
 13 or attempted, anyone, other than a public official, who brings  
 14 an action under this section shall do so under a pseudonym.  
 15 This subsection shall not be construed to conceal the identity  
 16 of the plaintiff or of witnesses from the defendant or from  
 17 attorneys for the defendant.

18 Sec. 9. REPEAL. Chapters 146B and 146C, Code 2021, are  
 19 repealed.

#### 20 DIVISION IV

#### 21 ABORTION FACILITY LICENSURE

22 Sec. 10. NEW SECTION. 146F.1 Definitions.

23 As used in this chapter, unless the context otherwise  
 24 provides:

25 1. "*Abortion*" means the termination of a human pregnancy  
 26 with the intent other than to produce a live birth or to remove  
 27 a dead fetus.

28 2. "*Abortion facility*" means a place where abortions,  
 29 including medication abortions, are performed.

30 3. "*Abortion-inducing drug*" means a drug, medicine, mixture,  
 31 or preparation, when prescribed or administered with the intent  
 32 to terminate the pregnancy of a woman known to be pregnant.  
 33 "*Abortion-inducing drug*" includes mifepristone and misoprostol.

34 4. "*Department*" means the department of inspections and  
 35 appeals.



1     5. "*Medication abortion*" means an abortion induced by an  
2 abortion-inducing drug.

3     Sec. 11. NEW SECTION. **146F.2 Abortions — where performed**  
4 **or induced — limitations.**

5     A licensed physician shall not perform or induce an abortion  
6 in this state unless the abortion is performed or induced in  
7 a licensed abortion facility.

8     Sec. 12. NEW SECTION. **146F.3 Abortion facility license.**

9     A person shall not establish or operate an abortion facility  
10 in this state without an appropriate license issued pursuant  
11 to this chapter. Each abortion facility shall have a separate  
12 license. An abortion facility license is not transferable or  
13 assignable.

14     Sec. 13. NEW SECTION. **146F.4 Exceptions to abortion**  
15 **facility license requirement.**

16     The following facilities are exempt from the licensing  
17 requirement pursuant to this chapter:

18     1. A hospital licensed pursuant to chapter 135B.

19     2. The office of a physician who is licensed pursuant to  
20 chapter 148, unless the physician primarily performs abortions.

21     Sec. 14. NEW SECTION. **146F.5 Application for abortion**  
22 **facility license — contents — fee — inspection — renewal —**  
23 **penalties.**

24     1. An applicant for an abortion facility license shall  
25 submit an application to the department on a form prescribed  
26 by the department. The application shall be accompanied by  
27 a nonrefundable license fee in an amount, not to exceed two  
28 thousand dollars, established by rule of the department adopted  
29 pursuant to chapter 17A.

30     2. The application shall contain evidence that there is  
31 at least one physician on the staff of the facility licensed  
32 pursuant to chapter 148. The department shall issue a license  
33 if, after inspection, the department finds that the applicant  
34 and the abortion facility meet the requirements of this chapter  
35 and the rules adopted pursuant to chapter 17A to administer

1 this chapter.

2 3. As a condition for renewal of a license, a licensee  
3 shall submit to the department an annual license renewal fee,  
4 not to exceed two thousand dollars, established by rule of the  
5 department adopted pursuant to chapter 17A.

6 4. A facility that does not comply with this chapter is  
7 subject to denial, suspension, or revocation of a license to  
8 operate an abortion facility.

9 Sec. 15. NEW SECTION. 146F.6 **Compliance inspections.**

10 The department shall inspect an abortion facility prior to  
11 initial issuance of the facility's license and annually prior  
12 to renewal of the license, and may inspect an abortion facility  
13 at reasonable times as necessary to ensure compliance with this  
14 chapter.

15 Sec. 16. NEW SECTION. 146F.7 **Adoption of rules — minimum**  
16 **standards for abortion facilities.**

17 1. The department shall adopt rules pursuant to chapter 17A  
18 for the issuance, renewal, denial, suspension, and revocation  
19 of a license to operate an abortion facility.

20 2. The department shall adopt rules pursuant to chapter 17A  
21 to establish minimum standards to protect the health and safety  
22 of a patient of an abortion facility. The minimum standards  
23 shall be evidence-based and shall address all of the following:

24 a. Facility safety and sanitation.

25 b. The qualifications and supervision of professional and  
26 other personnel.

27 c. Emergency equipment and procedures to provide emergency  
28 care.

29 d. Medical records and reports.

30 e. Procedure and recovery rooms.

31 f. Infection control.

32 g. Medication control.

33 h. Quality assurance.

34 i. Facility and laboratory equipment requirements,  
35 sanitation, testing, and maintenance.

1     *j.* Information on and access to patient follow-up care.

2     *k.* Patient screening, assessment, and monitoring.

3                                   DIVISION V

4                   PERSON — APPLICATION TO CRIMINAL CODE

5     Sec. 17. NEW SECTION.   **702.26 Person and application to**  
6 **crimes against a person.**

7     1. Whenever the word "*person*" appears in the criminal  
8 code relating to crimes against a person, "*person*" means  
9 an individual living human being without regard to age of  
10 development from the moment of conception, when a zygote is  
11 formed, until natural death. Each such person is accorded the  
12 same rights and protections guaranteed to all persons by the  
13 Constitution of the United States, the Constitution of the  
14 State of Iowa, and the laws of this state.

15    2. Notwithstanding any other provision of law to the  
16 contrary, in the criminal code:

17     *a.* The elements of a crime against a person shall not be  
18 interpreted to preclude the use of medications or procedures  
19 necessary to relieve a person's pain or discomfort if the  
20 use of the medications or procedures is not intentionally or  
21 knowingly prescribed or administered to cause the death of a  
22 person.

23     *b.* The following acts do not constitute a crime against a  
24 person:

25       (1) Medical treatment for life-threatening conditions  
26 provided to a person by a physician licensed to practice  
27 medicine which results in the accidental or unintentional  
28 injury or death of another person.

29       (2) Legitimate medical treatment for life-threatening  
30 conditions not intended to harm a person but which has the  
31 foreseeable effect of ending a person's life, including  
32 legitimate medical treatment to preserve the life of a pregnant  
33 woman even if the foreseeable effect is harm to the fetus, as  
34 long as the person providing the medical treatment exercises  
35 that degree of professional skill, care, and diligence

1 available to preserve the life and health of the fetus.

2 (3) The creation of a person through in vitro fertilization.

3 (4) Contraception administered before a clinically  
4 diagnosable pregnancy.

5 c. A crime against a person who has not yet been born shall  
6 only be charged against the principal actor of the criminal  
7 conduct. For the purposes of this lettered paragraph "c",  
8 a person is a principal actor if the person does any of the  
9 following:

10 (1) Commits an offense punishable under the criminal code or  
11 aids, abets, counsels, commands, or procures its commission.

12 (2) Causes an act to be done which, if directly performed by  
13 the person, would be punishable under the criminal code.

14 3. This section shall not be interpreted as a basis for  
15 inuring to or vesting in a child before the time of live birth  
16 or in the biological parents of a child before the time of live  
17 birth a pecuniary interest or citizenship status.

18 4. This section shall not be construed to authorize the  
19 charging or conviction of a woman with a criminal offense upon  
20 whom an abortion is performed or attempted resulting in the  
21 death of a preborn child as defined in section 146A.1.

22 DIVISION VI

23 PREBORN CHILD — DEPENDENT UNDER TAX CODE

24 Sec. 18. Section 422.12, subsection 1, paragraph a, Code  
25 2021, is amended to read as follows:

26 a. "*Dependent*" has the same meaning as provided by the  
27 Internal Revenue Code, and includes a preborn child as defined  
28 in section 146A.1.

29 DIVISION VII

30 PREBORN CHILD — SUPPORT OF DEPENDENTS

31 Sec. 19. Section 252A.2, subsection 2, Code 2021, is amended  
32 to read as follows:

33 2. "*Child*" includes but shall not be limited to a stepchild,  
34 foster child, or legally adopted child and means a child  
35 actually or apparently under eighteen years of age, and a

1 dependent person eighteen years of age or over who is unable  
 2 to maintain the person's self and is likely to become a public  
 3 charge. "Child" includes a preborn child as defined in section  
 4 146A.1 upon medical confirmation of the pregnancy; however,  
 5 any support payable for a preborn child shall be paid only  
 6 from the date of birth or the date paternity is established,  
 7 as applicable.

8 DIVISION VIII

9 POPULATION-BASED STATISTICS — PREBORN CHILD

10 Sec. 20. Section 135.11, Code 2021, is amended by adding the  
 11 following new subsection:

12 NEW SUBSECTION. 29. Require that population-based data and  
 13 vital statistics collected and reported by the bureau of health  
 14 statistics include preborn children as defined in section  
 15 146A.1 from the time a fetal heartbeat is detected.

16 DIVISION IX

17 SEVERABILITY

18 Sec. 21. SEVERABILITY CLAUSE. If any provision of this Act  
 19 or its application to a person or circumstance is held invalid,  
 20 the invalidity does not affect other provisions of applications  
 21 of this Act which can be given effect without the invalid  
 22 provision or application, and to this end the provisions of  
 23 this Act are severable.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with  
 26 the explanation's substance by the members of the general assembly.

27 This bill creates the living infants fairness and equality  
 28 Act. The bill is divided into divisions.

29 Division I of the bill creates a short title of the bill as  
 30 the living infants fairness and equality Act.

31 Division II of the bill relates to prerequisites for an  
 32 abortion. The division replaces the term "unborn child" with  
 33 "preborn child" throughout the Code and amends the definition  
 34 of "medical emergency". The division adds to the existing  
 35 prerequisites that a physician performing an abortion shall

1 obtain written certification from the pregnant woman prior  
2 to performing an abortion that the woman was informed of the  
3 probable gestational age of the preborn child; that the woman  
4 has been provided information that there is evidence that even  
5 prior to 20 weeks gestation a preborn child feels pain and the  
6 administration of anesthesia to a preborn child prior to 20  
7 weeks gestation is routine; that the woman has been provided a  
8 declaration that abortion ends a unique human life; and that  
9 the woman has been provided information regarding coercion and  
10 abortion and resources to seek assistance. Additionally, the  
11 division requires that the woman has been provided information  
12 by a licensed mental health counselor or licensed marital and  
13 family therapist as defined in Code section 154D.1 based upon  
14 the materials developed by the department of public health  
15 that, in addition to existing required information, includes  
16 local, state, and federal resources available to pregnant women  
17 including social services, adoption services, medical services,  
18 maternity homes, and services for those who are victims of rape  
19 or domestic abuse.

20 Division III of the bill prohibits the performance of  
21 an abortion after a fetal heartbeat is detected unless,  
22 in the physician's reasonable medical judgment, a medical  
23 emergency exists. The division requires that if an abortion is  
24 performed, the physician shall terminate the pregnancy in the  
25 manner which, in the physician's reasonable medical judgment,  
26 provides the best opportunity for a preborn child to survive.  
27 Additionally, a physician who performs or attempts to perform  
28 an abortion based on the existence of a medical emergency,  
29 shall document the medical basis for the determination  
30 including the specific medical condition the physician believes  
31 would have caused the death of the woman or the specific  
32 medical condition the physician believes would constitute a  
33 substantial and irreversible physical impairment of a major  
34 bodily function of the woman.

35 A physician who violates the division is subject to licensee

1 discipline which may include a civil penalty not to exceed  
2 \$10,000. The division also includes additional civil and  
3 criminal penalties. Under the division, a physician who  
4 intentionally or recklessly performs or attempts to perform an  
5 abortion in violation of the division is guilty of a class "C"  
6 felony.

7 A woman upon whom an abortion has been performed in violation  
8 of the division may maintain an action against the physician  
9 who performed the abortion in intentional or reckless violation  
10 of the division for actual damages. A woman upon whom an  
11 abortion has been attempted in violation of the division may  
12 maintain an action against the physician who attempted to  
13 perform the abortion in intentional or reckless violation  
14 of the division for actual damages. A cause of action for  
15 injunctive relief to prevent a physician from performing  
16 an abortion may be maintained against a physician who has  
17 intentionally violated the division by the woman upon whom the  
18 abortion was performed or attempted, by a parent or guardian  
19 of the woman if the woman is less than 18 years of age or  
20 unmarried at the time the abortion was performed or attempted,  
21 by a current or former licensed health care provider of the  
22 woman, by a county attorney with appropriate jurisdiction, or  
23 by the attorney general. The division provides for payment of  
24 attorney fees to a prevailing party. Damages and attorney fees  
25 shall not be assessed against the woman upon whom an abortion  
26 was performed or attempted unless the suit was frivolous or  
27 brought in bad faith. The division also provides for anonymity  
28 of the woman in a civil or criminal proceeding or action  
29 brought under the division.

30 The division repeals Code chapter 146B (abortion —  
31 postfertilization age) and Code chapter 146C (abortion —  
32 detectable fetal heartbeat).

33 Division IV of the bill relates to the licensing and  
34 inspection of abortion facilities including those that provide  
35 medication abortions.

1 The division prohibits a licensed physician from performing  
2 or inducing an abortion in this state unless the abortion is  
3 performed or induced in a licensed abortion facility.

4 The division prohibits a person from establishing or  
5 operating an abortion facility in the state without an  
6 appropriate license. Each abortion facility shall have a  
7 separate license, and the license is not transferable or  
8 assignable.

9 The division provides that a hospital licensed pursuant  
10 to Code chapter 135B and the office of a licensed physician  
11 who does not primarily perform abortions are exempt from the  
12 licensing requirements.

13 The division provides for application for an abortion  
14 facility license, to be accompanied by a nonrefundable  
15 license fee in an amount not to exceed \$2,000, established  
16 by administrative rule of the department of inspections and  
17 appeals (DIA). The application shall contain evidence that  
18 there is at least one licensed physician on the staff of the  
19 facility. DIA shall issue a license if, after inspection,  
20 DIA finds that the applicant and the abortion facility meet  
21 the requirements of the division and the administrative rules  
22 adopted to administer the division. As a condition for renewal  
23 of a license, a licensee shall submit an annual license renewal  
24 fee not to exceed \$2,000, as established by administrative rule  
25 of DIA.

26 DIA is required to inspect an abortion facility prior to  
27 initial issuance of the facility's license and annually prior  
28 to renewal of the license, and may inspect an abortion facility  
29 at reasonable times as necessary to ensure compliance with the  
30 division.

31 DIA shall adopt administrative rules for the issuance,  
32 renewal, denial, suspension, and revocation of a license to  
33 operate an abortion facility and to establish minimum standards  
34 to protect the health and safety of a patient of an abortion  
35 facility as specified in the division.



1 A facility that does not comply with the licensing and  
2 inspection requirements of the division is subject to denial,  
3 suspension, or revocation of a license to operate an abortion  
4 facility.

5 Division V of the bill relates to the definition of "person"  
6 under the criminal code.

7 The division defines "person" for the purposes of the  
8 criminal code to be an individual living human being without  
9 regard to age of development from the moment of conception,  
10 when a zygote is formed, until natural death. Each such  
11 person is accorded the same rights and protections guaranteed  
12 to all persons by the Constitution of the United States, the  
13 Constitution of the State of Iowa, and the laws of this state.

14 The division provides exemptions to the interpretation and  
15 application of crimes against a person based on the definition.  
16 The division provides that the elements of a crime against  
17 a person shall not be interpreted to preclude the use of  
18 medications or procedures necessary to relieve a person's pain  
19 or discomfort if the use of the medications or procedures is  
20 not intentionally or knowingly prescribed or administered  
21 to cause the death of a person. Additionally, the division  
22 specifies acts that do not constitute a crime against a person.

23 Under the division, a crime against a person who has not yet  
24 been born shall only be charged against the principal actor of  
25 the criminal conduct. The division defines "principal actor"  
26 for the purposes of the division. The division also provides  
27 that the provisions of the division shall not be interpreted as  
28 a basis for inuring to or vesting in a child before the time of  
29 live birth or in the biological parents of a child before the  
30 time of live birth a pecuniary interest or citizenship status.

31 The division also provides that the division is not to be  
32 construed to authorize the charging or conviction of a woman  
33 with a criminal offense upon whom an abortion is performed or  
34 attempted resulting in the death of a preborn child as defined  
35 in Code section 146A.1.

1 Division VI of the bill defines "dependent" for the purposes  
2 of Code chapter 422 (individual income, corporate, and  
3 franchise taxes) to include a preborn child.

4 Division VII of the bill defines "child" for the purposes of  
5 Code chapter 252A (support of dependents) to include a preborn  
6 child. However, any support payable relative to any preborn  
7 child shall be paid only from the date of birth or the date  
8 paternity is established, as applicable.

9 Division VIII of the bill establishes as a duty of the  
10 department of public health to require that population-based  
11 data and vital statistics collected and reported by the bureau  
12 of health statistics include preborn children from the time a  
13 fetal heartbeat is detected.

14 Division IX of the bill provides a severability clause.